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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,446

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Scott A. Burton

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07/24/2008

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EXAMINER

GHALI, ISIS A D

ART UNIT

PAPER NUMBER

1611

NOTIFICATION DATE

DELIVERY MODE

07/24/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/728,446	Applicant(s) BURTON ET AL.	
	Examiner Isis A. Ghali	Art Unit 1611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-35, 37-39 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-35, 37-39 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/23/2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The receipt is acknowledged of applicants' amendment filed 04/23/2008.

A copy of the second page of the IDS filed November 05, 2007 has been received. This page of the IDS was unintentionally unsigned. An initialed signed copy is attached to this office action.

Claims 1-44 previously presented.

Claims 5, 36, and 40-44 have been canceled.

Claim 45 has been added by the present amendment.

Claims 1-4, 6-35, 37-39 and 45 are pending and included in the prosecution.

The following rejection has been overcome by virtue of applicants' amendment and remarks:

The rejection of claims 14 and 26 under 35 U.S.C. 112, second paragraph, as being indefinite.

The following rejections have been discussed in details in the previous office action, and are maintained for reasons of records:

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-4, 6-35, 37-39 and 45 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-51 of copending Application No. 10/917,002, and over claims 21-30 of copending Application No. 10/917,102. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the referenced copending applications and would be covered by any patent granted on the copending applications since the referenced copending applications and the instant application are claiming common subject matter

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as follows: method of coating silver compound on a substrate comprising combining silver-containing compound with ammonium-containing compound in a solution, coating the solution on a substrate and drying the substrate. The present claims anticipate the claims of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. The examiner acknowledged applicants' intention to provide an appropriate response to overcome provisional obviousness-type double patenting rejection upon an indication of otherwise allowable subject matter. However, "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in one of the applications.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 9-14, 25 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 769,799 ('799).

GB '799 disclosed method for coating substrate of fabric, sheet or fibers with sparingly water soluble silver salt including dipping or wetting the substrate surface with solution comprising aqueous solution of silver salt including silver nitrate, and ammonia compound to solubilize the silver salt, followed by drying the wet substrate (page 1, lines 81-85; page 2, lines 1-5, 18-26, 30-36, 112-120; page 3, lines 112-115; the tale in page 6). The coating solution further comprises stabilizer that reads on antioxidant claimed by claims 12 and 13, and the stabilizer is added to the coating solution that is applied to the substrate, therefore, the limitations of claims 12 and 13 are met. Drying by heat will inherently remove volatile components of the coated solution and silver will remains. GB '799 disclosed that the solution can be coated on medical articles surgical masks and surgeons hats (page 5, lines 123-125). The pH of the coating solution comprising the same ingredients including ammonia will inherently have the same alkaline pH value. The coated substrate is lethal to bacteria and fungi falling on its surface and remains this way for long time (page 2, lines 3-5). GB '799 disclosed that dipping the substrate in the solution is carried out at temperature 60 °C 80 °C, however, temperature variation does not produce any significant change in the treated article, and even higher temperature caused color changes (page 6, lines 10-20). The reference further disclosed that the sheet is stable and resists prolonged exposure to strong sunlight, which meets the limitation of stable to at least one of visible light, UV light, electron beam, and gamma sterilization (page 5, lines 103-105, 127-128). The reference disclosed applying to an article solution containing the anions of the sparingly water soluble silver salt and also containing a basic nitrogen compound, i.e. ammonia or

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an amine, which serves as a solubilizer for the sparingly soluble silver salt (page 2, lines 17-27), i.e. both of silver salt and ammonium compound are in single solution prior to application to the article.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 3, 4, 7, 8 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB '799 in view of WO 02/43743 ('743).

The teachings of GB '799 are discussed under 102 rejection as set forth in this office action.

Although GB '799 disclosed insignificant effect of temperature variation of the dipping solution on the treated article and the disadvantage of higher temperature, however GB '799 does not teach specifically temperature less than 40 °C as claimed by claims 3 and 4.

Further GB '799 disclosed ammonia added to the sparingly water soluble salt solution for solubilizing the solution, however, it does not explicitly teach ammonium salts claimed by claims 7 and 8.

Although GB '799 teaches coating medical articles with the disclosed solution, however, the reference does not explicitly teach coating wound dressing.

WO '743 teaches wound dressing made of polymer such as hydrocolloid or polymer fibers prepared by method comprising the steps of subjecting the polymer to aqueous solution comprising silver salts such as nitrate, and ammonium salt such as acetate or carbonate at ambient temperature, i.e. below 40 °C, and drying the material (page 3, lines 24-30; page 4, lines 1-15; page 5, lines 3, 10-15; page 7, lines 1-3, 12-15, claim 9). The produced material is stable (page 8, line 3). The ammonium salts facilitate the silver photostabilization (page 7, lines 4-7). The solution further comprises peroxide as stabilizing agent (page 7, lines 4-7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonia on the

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article followed by drying the article as disclosed by GB '799, and dry the article at ambient temperature as disclosed by WO '734 because WO '743 teaches range of temperature up to 100 °C, and preferred ambient temperature, and also because GB '799 taught that temperature variations does not have significant effect of the treated article and taught that high temperature is disadvantageous, with reasonable expectation of having method to successfully coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonia on the article followed by drying the article at ambient temperature with less coast and avoidance of deleterious heat effects.

It would have been also obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonia on the article followed by drying the article as disclosed by GB '799, and replace the ammonia compound with ammonium carbonate as disclosed by WO '743, motivated by the teaching of WO '743 that ammonium slats including ammonium carbonate facilitates photostabilization of silver, with reasonable expectation of having method to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonium carbonate on the article followed by drying the article wherein the coating over the article is photostable.

Additionally, it would have been obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonia on the

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article followed by drying the article as disclosed by GB '799, and use such a coating to coat wound dressing motivated by the teaching of GB '799 that article coated with such a coating is lethal to bacteria and fungi falling on its surface and remains this way for long time, and also motivated by the teaching of WO '743 that wound dressing subjected to solution comprising silver salt and ammonium salts is photostable, with reasonable expectation of having method to coat a wound dressing with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonium carbonate on the article followed by drying the article wherein the coating over the dressing is lethal to the microorganisms that come in contact with the surface of the dressing and also photostable.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB '799 in view of US 4,592,920 ('920).

The teachings of GB '799 are discussed under 102 rejection as set forth in this office action.

Although GB '799 disclosed sparingly water soluble silver salts, however, the reference does not explicitly teach silver oxide.

US '920 teaches coating of medical devices with coat containing antimicrobial metal that is biocompatible with body including silver oxide (abstract; col.2, lines 1-3; col.3, lines 22-25, 32-33).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an

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aqueous solution comprising sparingly water soluble silver salt and ammonia on the article followed by drying the article as disclosed by GB '799, and replace the water sparingly silver salt with silver oxide disclosed by US '920, motivated by the teaching of US '920 that silver oxide is biocompatible with body, with reasonable expectation of having method to coat a medical article with silver compound by coating an aqueous solution comprising silver oxide and ammonia compound on the article followed by drying the article wherein the coating is safe and biocompatible with the body.

10. Claims 15-24, 26 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of GB '799, WO '743, and U S '920.

The teachings of the references are previously discussed as set forth in this office action. GB 799 teaches the claimed method of coating silver compound on a substrate, however, GB '799 does not explicitly teach silver oxide and the specific ammonium containing compounds as claimed by claim 15. Silver oxide is taught by US '920, and specific ammonium containing compounds are taught by WO '743. The temperature claimed by claims 17 and 18 and the wound dressing claimed by claim 38 are all taught by WO '743.

Therefore, it would have been also obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonia on the article followed by drying the article as disclosed by GB '799, and replace the ammonia compound with ammonium carbonate as disclosed by WO '743, motivated by the

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teaching of WO '743 that ammonium salts including ammonium carbonate facilitates photostabilization of silver, with reasonable expectation of having method to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonium carbonate on the article followed by drying the article wherein the coating over the article is photostable.

Further, it would have been obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonium carbonate on the article followed by drying the article as disclosed by GB '799 combined with WO '743, and replace the water sparingly silver salt with silver oxide disclosed by US '920, motivated by the teaching of US '920 that silver oxide is biocompatible with body, with reasonable expectation of having method to coat a medical article with silver compound by coating an aqueous solution comprising silver oxide and ammonia carbonate on the article followed by drying the article wherein the coating is safe and biocompatible with the body.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising silver oxide and ammonium carbonate on the article followed by drying the article as disclosed by GB '799 combined with WO '743 and US '920, and dry the article at ambient temperature as disclosed by WO '734 because WO '743 taught range of temperature up to 100 °C, and preferred ambient temperature, and also because GB '799 taught that temperature variations does not have significant

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effect of the treated article and taught that high temperature is disadvantageous, with reasonable expectation of having method to successfully coat a medical article with silver compound by coating an aqueous solution comprising silver oxide and ammonium carbonate on the article followed by drying the article at ambient temperature with less cost and avoidance of deleterious heat effects.

Additionally, it would have been further obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising silver oxide and ammonium carbonate on the article followed by drying the article as disclosed by the combined teachings of GB '799, WO '743 and US '920, and use such a coating to coat wound dressing, motivated by the teaching of GB '799 that article coated with such a coating is lethal to bacteria and fungi falling on its surface and remains this way for long time, and also motivated by the teaching of WO '743 that wound dressing subjected to solution comprising silver salt and ammonium salts is photostable, with reasonable expectation of having method to coat a wound dressing with silver compound by coating an aqueous solution comprising sparingly silver oxide and ammonium carbonate on the article followed by drying the article wherein the coating over the dressing is lethal to the microorganisms that come in contact of the surface of the dressing and also photostable.

11. Claims 27, 28, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB '799 combined with US '920.

The teachings of the references are previously discussed as set forth in this office action. GB 799 teaches the claimed method of coating silver compound on a substrate, however, GB '799 does not explicitly teach silver oxide as claimed by claim 27. Silver oxide is taught by US '920.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonium containing compound on the article followed by drying the article as disclosed by GB '799, and replace the water sparingly silver salt with silver oxide disclosed by US '920, motivated by the teaching of US '920 that silver oxide is biocompatible with body, with reasonable expectation of having method to coat a medical article with silver compound by coating an aqueous solution comprising silver oxide and ammonia compound on the article followed by drying the article wherein the coating is safe and biocompatible with the body.

12. Claims 29-32 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB '799 combined with US '920 and further in view of WO '743.

The teachings of the references are previously discussed as set forth in this office action. GB 799 teaches the claimed method of coating silver compound on a substrate, however, GB '799 does not explicitly teach the specific ammonium containing compounds as claimed by claims 31 and 32. The temperature claimed by claims 29 and 30 and the wound dressing claimed by claim 38 are all taught by WO '743.

Therefore, it would have been also obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver oxide and ammonia on the article followed by drying the article as disclosed by the combination of GB '799 and US '920, and replace the ammonia compound with ammonium carbonate as disclosed by WO '743, motivated by the teaching of WO '743 that ammonium salts including ammonium carbonate facilitates photostabilization of silver, with reasonable expectation of having method to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver salt and ammonium carbonate on the article followed by drying the article wherein the coating over the article is photostable.

Additionally, it would have been further obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising sparingly water soluble silver oxide and ammonia carbonate on the article followed by drying the article as disclosed by the combined teachings of GB '799, US '920 and WO '743, and use such a coating to coat wound dressing, motivated by the teaching of GB '799 that article coated with such a coating is lethal to bacteria and fungi falling on its surface and remains this way for long time, and also motivated by the teaching of WO '743 that wound dressing subjected to solution comprising silver salt and ammonium salts is photostable, with reasonable expectation of having method to coat a wound dressing with silver compound by coating an aqueous solution comprising silver oxide and ammonium carbonate on the article followed by drying the article wherein the coating over the dressing is lethal to the

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microorganisms that come in contact of the surface of the dressing and also photostable.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time of the invention to coat a medical article with silver compound by coating an aqueous solution comprising silver oxide and ammonium carbonate on the article followed by drying the article as disclosed by the combination of GB '799 with US '920 and WO '743, and dry the article at ambient temperature as disclosed by WO '734 because WO '743 taught range of temperature up to 100 °C, and preferred ambient temperature, and also because GB '799 taught that temperature variations does not have significant effect of the treated article and taught that high temperature is disadvantageous, with reasonable expectation of having method to successfully coat a medical article with silver compound by coating an aqueous solution comprising silver oxide and ammonium carbonate on the article followed by drying the article at ambient temperature with less cost and avoidance of deleterious heat effects.

Response to Arguments

13. Applicant's arguments filed 04/23/2008 have been fully considered but they are not persuasive. The main gist of Applicants' argument against the anticipatory and obviousness rejections of the claims over GB '799 is that the reference teaches using two separate solutions one containing silver salt and the other containing ammonium salt, and does not teach single solution containing silver and ammonium mixed prior to application to the substrate, but multiple solutions.

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In response to this argument, applicants' attention is directed to page 2 of the GB '799, lines 17-27, wherein the reference disclosed that:

"In many instances the mixture of silver salt, the light stabilizer for the silver salt, and the fungicidal salt are co-precipitated on the surfaces of the article by wetting the surfaces of the article with succession of properly chosen solutions containing the component ions of the substances, **the solution containing the anions of the sparingly water soluble silver salt also containing a basic nitrogen compound, i.e. ammonia or an amine,** which serves as a solubilizer for the sparingly soluble silver salt."

Therefore, GB '799 clearly disclosed combination of both silver salts and ammonium containing compounds in one solution prior to application to the article, and also disclosed that ammonium containing compound will solubilize the silver salt, and that will form clear solution since the sparingly soluble silver salt is solubilized.

Applicants argue that the GB '799 disclosed that discoloration happened with treatment O of example 2 that disclosed to have both ammonium compound and silver salt in one solution, therefore the reference teaches away.

In response to this argument, applicants' attention is directed to treatment O that contains ingredients other than ammonium compound and silver salt that may cause the discoloration. The disclosed examples and preferred embodiment do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. *In re Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). Applicants themselves admit that ammonium compounds solubilize silver salt, the fact also disclosed by the reference, and compounds and their properties are inseparable. Further, the claims are not directed to stability against discoloration, or stability of the solution, but stability of the substrate.

Applicants argue that they have done Example 2 Treatment A of GB '799, by combining the First solution (5 g AgNO_3 , 5g $\text{Mg}(\text{NO}_3)_3 \cdot 6\text{H}_2\text{O}$, 1000 mL H_2O) with the Second solution (3 g NaCl , 5g $\text{Na}_2\text{PO}_4 \cdot 12\text{H}_2\text{O}$, 200 mL $\text{NH}_3(\text{Aq})$ and 800 mL H_2O). Prior to mixing, both solutions were clear, and upon mixing a white precipitate formed. The formation of the white precipitate indicates that the salts are not compatible in a single solution. This mixture is therefore not suitable for treating cotton because the precipitated particles would not incorporate properly into the interstices of the cotton fiber. It is not clear why the ammonia is included in the Second solution. Perhaps, the ammonia acts more as a stabilizer and less as a solubilizer. Applicants stated that they are willing to provide a Declaration providing the details of this experiment.

In comment to the experiment applicants have done and are willing to provide it in declaration, it is noticed that the experiment does not commensurate in scope with the claims because each solution contains salts other than those claimed by applicants, and the first solution contains salts other than silver salt, and the second solution contains compounds and salts other than ammonium compounds, and precipitation can happen from the reaction of other compounds. Applicants themselves admit that ammonium compounds solubilize silver salt, the fact also disclosed by the reference, therefore, the precipitation happened from applicants' experiment is not due to reaction of silver salt and ammonium compound. Additionally, the rejection of the claims over GB '799 is anticipatory rejection that can not be overcome by declaration.

Applicants argue that WO '743 discloses that a polymer is first brought into contact with the silver in an alcohol/water so as to avoid hydration of the polymer. Although an aqueous ammonium salt solution may be added to the silver-containing organic solution with polymer, the resulting solution would still need to limit the amount of water to 50% or less to avoid hydration of the polymer. Although there is no specific reference to the amount of water, all the examples include only water as the liquid carrier with no alcohols or other organic liquids included.

In response to this argument, it is argued that applicants themselves admit that no reference made to specific amount of water, and further the "comprising" language of the claims does not exclude the presence other ingredients in the mixture solution, active or inactive including alcohol, even in major amounts.

Applicants argue that WO '743 discloses medical materials containing silver salts, with a laundry list of silver salts that include silver carbonate, however, there is no preference for sparingly soluble silver-containing compounds, as defined by Applicants. WO '743 does not teach use of silver oxide, as recited in independent claims 15 and 27.

In response to this argument, it is argued that WO '743 is relied upon for the teachings of the range of temperature up to 100 °C, ammonium carbonate that facilitates photostabilization of silver, and wound dressing can incorporate silver salts and ammonium salts to provide photostable dressing. It is also noticed that silver oxide claimed by claims 15 and 27 is taught by US '920.

Applicants argue that using a sparingly soluble silver-containing compound makes it difficult to process using aqueous solutions. Applicants have solved this problem by using an ammonium-containing compound to assist in dissolution of the sparingly soluble silver-containing compound in water. This problem and solution are not recognized by WO '743.

In response to this argument, it is argued that the problem of dissolution of sparingly soluble silver salts in ammonium containing compound is addressed by GB '799, and WO '743 is relied upon for the teachings of the range of temperature, ammonium carbonate that facilitates photostabilization of silver, and wound dressing can incorporate silver salts and ammonium salts to provide photostable dressing.

Applicants argue that WO '743 discloses an example at page 8 using an AQUACEL wound dressing, which is treated with a silver nitrate solution containing silver chloride in an amount of between 0.01 and 50%. The resultant product is said to be photostable. Applicants have tested a commercially available product believed to be similar to this material. This test appears as Comparative Example D at page 19 of WO 2006/113052, and demonstrates that a commercially available AQUACEL Ag, which contains silver chloride silver alginate, undergoes an undesirable color change upon exposure to fluorescent light. Thus, this product is not "stable".

In response to this argument, it is noticed that the experiment does not commensurate in scope with the claims because no ammonium compounds were used, and not the same substrate used by applicants.

With regard to the rejection over US '920 under 35 U.S.C. 103(a) as being unpatentable, applicant has failed to traverse the rejection and the response is considered to be acquiescence to the position taken by the examiner. The rejection is therefore repeated for reasons of record. See MPEP 37 CFR 1.111 (b).

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis A. Ghali whose telephone number is (571) 272-0595. The examiner can normally be reached on Monday-Thursday, 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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